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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JAMES STEVEN ROSENFIELD,
Plaintiff,

v.
RUNYON GROUP, LLC, a California
Limited Liability Company, ATLAS
CAPITAL GROUP, LLC, a Delaware
Limited Liability Company, and DOES
1 through 10 inclusive,

Defendants.

Case No. 2:18-cv-3796

COMPLAINT FOR:

**(1) VIOLATION OF SECTION 43(a)
OF THE LANHAM ACT (15 U.S.C. §
1125(a))**
**(2) UNFAIR BUSINESS PRACTICES
(CAL. BUS. & PROF. CODE §§ 17200
et seq.)**
**(3) UNFAIR COMPETITION
(CALIFORNIA COMMON LAW)**

DEMAND FOR JURY TRIAL

GREENBERG GLUSKER FIELDS CLAMAN
& MACHTINGER LLP
1900 Avenue of the Stars, 21st Floor
Los Angeles, California 90067-4590

1 Plaintiff James Steven Rosenfield (“Plaintiff”) alleges as follows:

2

3 **INTRODUCTION**

4 1. Plaintiff owns trademark rights in the Country Mart brand (the
 5 “COUNTRY MART Mark”). Plaintiff uses and/or licenses the COUNTRY MART
 6 Mark in commerce in connection with the historic Brentwood Country Mart in Los
 7 Angeles and its sister shopping center projects Marin Country Mart in Northern
 8 California and Montecito Country Mart in Santa Barbara County (collectively, the
 9 “Country Mart Centers”).

10 2. The Country Mart Centers are community centers offering an eclectic
 11 mix of restaurants, stores and services providing the public with the opportunity to
 12 gather, eat and shop in open-air communal spaces. The Country Mart Centers are
 13 known for their celebration of local artisans and vibrant open-air feel in an
 14 appealing vintage inspired setting. The oldest of the Country Mart Centers,
 15 Brentwood Country Mart, has been operating continuously under that name since
 16 1948 and is a widely recognized and beloved Los Angeles institution. Plaintiff has
 17 invested substantial time, effort and expense maintaining the strength of the well-
 18 known “Country Mart” brand. As a result, Plaintiff has built substantial goodwill,
 19 distinctiveness and common law rights in the COUNTRY MART Mark, which he
 20 is entitled to protect.

21 3. Defendants are currently developing a shopping center in Los Angeles’
 22 San Fernando Valley that they call “Valley Country Mart” (the “Unauthorized
 23 Center”). Defendants have described the Unauthorized Center as a “reimagining of
 24 a classic 1950s neighborhood marketplace that will feature a thoroughly edited
 25 selection of...independent merchants, local chefs and neighborhood services”—a
 26 description that immediately conveys the concept and feel of the Country Mart
 27 Centers. While Defendants’ shopping center has not yet opened, Defendants have
 28 already installed signage at the center using not only the confusingly similar name,

1 but a confusingly similar logo as well, as depicted in the photographs below:



13 4. Plaintiff has not authorized or otherwise granted Defendants
 14 permission to use the COUNTRY MART Mark in connection with the
 15 Unauthorized Center. Defendants are featuring the COUNTRY MART Mark in
 16 advertising, promotions and marketing material for the Unauthorized Center
 17 directed to prospective tenants, including current tenants of the Country Mart
 18 Centers. Defendants' conduct is likely to cause, and has already caused, consumer
 19 confusion. Despite Plaintiff's repeated attempts to resolve this matter without
 20 litigation, Defendants have refused to change the name of their center. Indeed, their
 21 conduct evidences a deliberate attempt to trade on Plaintiff's rights for their own
 22 commercial advantage. Accordingly, Plaintiff has been forced to file this lawsuit.

JURISDICTION AND VENUE

24 4. This action arises under the Lanham Act, 15 U.S.C. section 1125, as well
 25 under California statutory and common law. The Court has original jurisdiction
 26 over the subject matter pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and
 27 1338. The Court has supplemental jurisdiction over Plaintiff's state law claims
 28 under 28 U.S.C. § 1337(a).

1 5. Venue in this Judicial District is proper under 28 U.S.C. § 1391(b) and
2 (c), in that a substantial part of the events giving rise to Plaintiff's claims occurred
3 in this District, and one or more defendants reside in this District within the
4 meaning of 28 U.S.C. § 1391(c).

THE PARTIES

7 6. Plaintiff is a California resident and real estate developer in the
8 business of restoring, renovating and operating shopping centers.

9 7. Plaintiff is informed and believes, and based thereon alleges, that
10 defendant Runyon Group, LLC (“Runyon”) is a limited liability company
11 organized and existing under the laws of the state of California with its principal
12 place of business in Culver City, California.

13 8. Plaintiff is informed and believes, and based thereon alleges, that
14 defendant Atlas Group, LLC (“Atlas”) is a limited liability company organized and
15 existing under the laws of the state of Delaware with its principal place of business
16 in New York, New York. Plaintiff is informed and believes, and based thereon
17 alleges, that Atlas regularly does business in California and has an office located in
18 Los Angeles, California.

19 9. Plaintiff is unaware of the true names and capacities of the defendants
20 sued herein as Does 1 through 10, inclusive, and therefore sues these defendants by
21 fictitious names. Plaintiff will seek leave of this Court to amend this Complaint to
22 allege their true names and capacities when ascertained. Plaintiff is informed and
23 believes, and based thereon alleges, that each fictitiously named defendant is
24 responsible in some way for the unlawful conduct at issue in this Complaint, and is
25 liable to Plaintiff therefor. Runyon, Atlas and Does 1 through 10 are sometimes
26 referred to collectively herein as “Defendants.”

27 10. Plaintiff is informed and believes, and based thereon alleges, that at all
28 times relevant herein, each of the Defendants was the agent, servant, or employee

1 of each other Defendant, and at all times relevant herein was acting within the
 2 scope of such agency. As such, each and every Defendant herein is equally
 3 responsible in whole or in part for each and every act alleged herein.

4

5 **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

6

Plaintiff's Rights in the Country Mart Mark

7 11. Plaintiff is a real estate developer who focuses on the restoration and
 8 renovation of shopping environments that feature outdoor community spaces with
 9 exceptional high quality merchants. Plaintiff, individually and/or through the
 10 James Steven Rosenfield Revocable Trust, owns the COUNTRY MART Mark.
 11 Plaintiff and/or his licensees use the COUNTRY MART Mark in connection with
 12 vintage inspired shopping centers.

13

14 12. Included in Plaintiff's property portfolio is the Brentwood Country
 15 Mart in Los Angeles County. Likewise, Plaintiff licenses the COUNTRY MART
 16 Mark for use in connection with the Montecito Country Mart in Santa Barbara
 17 County and the Marin Country Mart in Northern California. The Country Mart
 18 Centers are located in restored vintage shopping spaces from the mid-twentieth
 19 century and are designed to re-create the experience of old-fashioned community
 gathering spaces.

20

21 13. Plaintiff's Brentwood Country Mart (the longest operating of the
 22 Country Mart Centers) has been operating continuously under that name since at
 23 least as early as 1948.

24

25 14. Each of the Country Mart Centers is branded with the COUNTRY
 26 MART Mark, which is immediately preceded by the location of that particular
 27 Country Mart Center. In addition, the logo for each Country Mart Center uses
 stylized versions of the COUNTRY MART Mark, as set forth below (the "Country
 Mart Logos").

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3 15. Each Country Mart Logo incorporates the location of a specific
4 Country Mart Center immediately followed by the words "country" and "mart."
5 All of the Country Mart Logos incorporate an element of cursive.
6

7 16. The Country Mart Centers offer a mix of local artisanal retailers,
8 luxury goods, high quality food and communal gathering and dining spaces.
9 Plaintiff and/or his licensees carefully curate the Country Mart Centers to ensure
10 that consumers are provided exceptional service by only the highest-quality
11 retailers. The resulting concept is a familiar and community driven environment in
12 which visitors feel relaxed and at home.
13

14 17. Tenants of the Country Mart Centers include service providers such as
15 barber shops and shoe repair shops; purveyors of luxury goods such as James Perse,
16 Calypso St. Barth and Intermix; children's boutiques including Poppy Store and
17 Toy Crazy; and dining services including artisanal ice cream, casual eateries and
18 full-service restaurants.
19

20 18. Over the years, Plaintiff has spent a substantial amount of time and
21 money promoting the Country Mart Centers under the COUNTRY MART Mark.
22 As a result of these activities, the COUNTRY MART Mark has acquired
23 tremendous goodwill and great value as a specific identifier of the Country Mart
24 Centers and the goods and services offered there. As such, the COUNTRY MART
25 Mark has acquired secondary meaning in the minds of relevant members of the
26 public as a symbol of the high quality of Plaintiff's goods, services and goodwill.
27

28 **Defendants' Unauthorized and Infringing Conduct**

19. Defendants Runyon and Atlas are real estate development companies
20 that are currently developing the Unauthorized Center they call "Valley Country
21 Mart" in Woodland Hills—a neighborhood located in Los Angeles, California's
22
23

1 San Fernando Valley.

2 20. Defendants are using the COUNTRY MART Mark without
 3 authorization in connection with the Unauthorized Center. Like the Country Mart
 4 Centers, the Unauthorized Center also uses the geographic location of the shopping
 5 center (the “Valley”) immediately before the words “country mart.”

6 21. In or about early 2016, a minority owner of the Brentwood Country
 7 Mart center presented Defendants with the “Valley Country Mart” concept for their
 8 new development project. However, Defendants never obtained a license or any
 9 other permission from Plaintiff to use the COUNTRY MART Mark in connection
 10 with the Unauthorized Center or otherwise. Instead, with full knowledge of
 11 Plaintiff’s rights in the COUNTRY MART Mark, Defendants moved forward with
 12 the Unauthorized Center under the Valley Country Mart name.

13 22. In or about February 2017, Defendants publicly announced the Valley
 14 Country Mart project. Defendants’ marketing and promotional materials described
 15 the Unauthorized Center as “a thoughtfully edited selection of Southern
 16 California’s best independent merchants, internationally renowned contemporary
 17 brands and a variety of incredible eateries” set in a “classic 1950’s Los Angeles
 18 structure.” This description could have been written to perfectly describe the
 19 Country Mart Centers.

20 23. In or about February 2017, Defendants began marketing the
 21 Unauthorized Center to prospective tenants, including businesses who were already
 22 tenants of the Country Mart Centers. Defendants used the COUNTRY MART
 23 Mark without authorization when reaching out to prospective tenants. Defendants’
 24 intentionally designed their marketing materials such that the name “Valley
 25 Country Mart” appears in a stylized font confusingly similar to the Country Mart
 26 Logos. As set forth below, Defendants’ logo utilizes the geographic location of the
 27 Unauthorized Center (“Valley”) followed by the words “country” and “mart” and
 28 incorporates cursive, just as the Country Mart Logos do.

Valley
Country
Mart

24. On or about February 16, 2017, Plaintiff's attorney sent a letter to Defendants demanding that Defendants cease and desist using the COUNTRY MART Mark in connection with the Unauthorized Center.

25. Although Defendants did not comply with Plaintiff's demand, Plaintiff learned that the Unauthorized Center was delayed and might not proceed. Thereafter, Plaintiff continued to monitor the status of the Unauthorized Center. Then, in late 2017 and early 2018 Plaintiff learned that Defendants were again actively seeking tenants for the Unauthorized Center. Among those tenants were current tenants of the Country Mart Centers. Plaintiff is informed and believes, and based thereon alleges, that Defendants intend to open the Unauthorized Center in Spring 2018 under the name "Valley Country Mart."

26. On or about February 7, 2018, Plaintiff wrote to Defendants in a final attempt to see if the matter could be resolved without litigation. Defendants never responded.

27. Plaintiff has not consented to Defendants' use of the COUNTRY MART Mark for any products or services.

28. Defendants' use of a mark that is identical to Plaintiff's COUNTRY MART Mark and a logo that is confusingly similar to the Country Mart Logos in connection with the marketing, advertising and promotion of their services is likely to cause, and has in fact already caused confusion and mistake in the minds of the public and relevant consumers; is likely to damage Plaintiff's COUNTRY MART Mark; and tends to and does falsely create the impression that Defendants' services offered under the "Valley Country Mart" name originate from or are authorized, sponsored, or approved by Plaintiff when they are not.

29. As set forth above, Defendants' unauthorized and unlawful conduct

1 has caused actual confusion in the marketplace. Set forth below are exemplary e-
2 mail excerpts showing the confusion Defendants' conduct has caused among
3 sophisticated tenants and prospective tenants:

4

5 **From:** Ali Elman <ali@basecoatnailsalon.com>
6 **Date:** March 21, 2017 at 9:13:12 PM PDT
7 **To:** sarah simon <sarahmeyersimon@gmail.com>
8 **Subject: Fwd: Base Coat + Valley Country Mart**

9 Check this out..
10 Is this the same owner as SB Country Mart?

11 Sent from my iPhone

12 Begin forwarded message:

13 **From:** David Fishbein <david@runyongroup.com>
14 **Date:** March 21, 2017 at 8:53:08 PM PDT
15 **To:** "Ali@basecoatnailsalon.com" <Ali@basecoatnailsalon.com>
16 **Cc:** Erin Mavian <erin@runyongroup.com>
17 **Subject: Base Coat + Valley Country Mart**

18 Hi Ali,

19 I hope you have been well.

20 I was given your contact by Gara Post at The NOW, who suggested I reach out to you on our latest project, Valley Country Mart. I
21 think it could be a really terrific location for Base Coat when we open Spring 2018.

22 We are redeveloping a classic 1950's Los Angeles center into the charming community centerpiece of the West Valley (an area
23 that includes the affluent neighborhoods of Calabasas, Woodland Hills, Hidden Hills, Encino, and Tarzana).

24 Valley Country Mart will include a thoughtfully edited selection of Southern California's best independent merchants,
25 internationally renowned contemporary brands, and a number of incredible eateries.

26 Attached is a digital look book for your review. I'd love to set up a time to connect to walk you through our plans.

27 Best,

28 David

Cc: Josh Weisman <josh@jsrosenfield.com>

19 Is this you guys?

20 Matt Holmes-415-601-8337
21 Sent this from his iPhone

22 Begin forwarded message:

23 **From:** David Fishbein | RUNYON <david@runyongroup.com>
24 **Date:** February 15, 2017 at 10:00:54 AM PST
25 **To:** <mholmes@retailwestinc.com>
26 **Subject: Valley Country Mart**
27 **Reply-To:** David Fishbein | RUNYON <david@runyongroup.com>

28 **RUNYON**

VALLEY COUNTRY MART

1 30. Although explicitly advised of Plaintiff's COUNTRY MART Mark,
2 Defendants have refused to cease using the Valley Country Mart name in
3 connection with the Unauthorized Center. Thus, Defendants' conduct constitutes
4 willful and intentional infringement of Plaintiff's COUNTRY MART Mark and
5 Country Mart Logos, in total disregard of Plaintiff's rights. Defendants' conduct
6 has continued despite Defendants' knowledge that their actions are in direct
7 contravention of Plaintiff's rights.

8 31. As a direct and proximate result of Defendants' unlawful conduct as
9 set forth above, Plaintiff has suffered, and will continue to suffer, irreparable injury
10 to the COUNTRY MART Mark as well as irreparable injury to the goodwill and
11 business reputation associated with Plaintiff's COUNTRY MART Mark.

12 32. Unless Defendants are enjoined and restrained by this Court from
13 engaging in the unlawful conduct described above, Plaintiff will continue to suffer
14 irreparable harm.

FIRST CLAIM FOR RELIEF

Against All Defendants for Violation of

Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a))

18 33. Plaintiff realleges and incorporates by this reference the allegations
19 contained in paragraphs 1 through 32, inclusive, as though they were fully set forth
20 herein.

21 34. By using the Valley Country Mart name in connection with the
22 advertising, promotion and marketing of the Unauthorized Center, and/or by
23 authorizing or contributing to the foregoing, without Plaintiff's permission or
24 consent, Defendants have created, and will continue to create, confusion in the
25 marketplace and have falsely created the impression in the minds of the public that
26 Plaintiff and the Country Mart Centers and COUNTRY MART Mark are somehow
27 associated or affiliated with Defendants; that Plaintiff is somehow sponsoring or
28 endorsing Defendants' Unauthorized Center; and/or that Plaintiff approved and/or

1 authorized Defendants' use of the Valley Country Mart name and COUNTRY
2 MART Mark. Such conduct violates section 43(a) of the Lanham Act, 15 U.S.C. §
3 1125(a).

4 35. As a direct and proximate result of Defendants' wrongful conduct,
5 Plaintiff has been damaged and is entitled to recover Defendants' wrongfully
6 obtained profits and three times Plaintiff's actual damages, pursuant to 15 U.S.C. §
7 1117(a).

8 36. Defendants' violation of the Lanham Act has caused and will cause
9 irreparable harm to Plaintiff which cannot be fully compensated by money.
10 Plaintiff has no adequate remedy at law. Therefore, in addition to monetary relief,
11 Plaintiff is entitled to preliminary and permanent injunctive relief preventing
12 Defendants from continuing to use the Valley Country Mart name or the
13 COUNTRY MART Mark, or any confusingly similar variations thereof, on or in
14 connection with the Unauthorized Center, or the advertising of the Unauthorized
15 Center.

16 37. Plaintiff is informed and believes, and based thereon alleges, that
17 Defendants engaged in the foregoing conduct knowingly, willfully and
18 oppressively, intending to appropriate Plaintiff's intellectual property to the
19 detriment of Plaintiff and to the confusion of the public. This constitutes an
20 exceptional case within the meaning Section 35 of the Lanham Act, 15 U.S.C. §
21 1117, for which Plaintiff is entitled to his attorneys' fees.

SECOND CLAIM FOR RELIEF

Against All Defendants for Unfair Business Practices

(Cal. Bus. & Prof. Code Sections 17200 *et seq.*)

25 38. Plaintiff realleges and incorporates by this reference the allegations
26 contained in paragraphs 1 through 37, inclusive, as though they were fully set forth
27 herein.

28 || 39. By their conduct as alleged above, Defendants have violated and

1 infringed Plaintiff's common law rights in the COUNTRY MART Mark and the
 2 Country Mart Logos, and have otherwise competed unfairly with Plaintiff in
 3 violation of section 17200 *et seq.* of the California Business and Professions code.

4 40. Plaintiff is entitled to relief against Defendants, including full
 5 restitution and/or disgorgement of all profits and benefits that may have been
 6 obtained by Defendants as a result of such unfair, deceptive, and/or fraudulent
 7 business practices.

8 41. Defendants' unlawful conduct has caused and will cause irreparable
 9 harm to Plaintiff which cannot be fully compensated by money. Plaintiff has no
 10 adequate remedy at law. Therefore, in addition to monetary relief, Plaintiff is
 11 entitled to preliminary and permanent injunctive relief enjoining Defendants from
 12 engaging in further acts of unfair competition.

13 **THIRD CLAIM FOR RELIEF**

14 **Against All Defendants for Unfair Competition**
 15 **(California Common Law)**

16 42. Plaintiff realleges and incorporates by this reference the allegations
 17 contained in paragraphs 1 through 41, inclusive, as though they were fully set forth
 18 herein.

19 43. By their conduct as alleged above, Defendants have violated and
 20 infringed Plaintiff's common law rights in the COUNTRY MART Mark and the
 21 Country Mart Logos, and have otherwise competed unfairly with Plaintiff in
 22 violation of the common law of the state of California.

23 44. As a direct and proximate result of Defendants' conduct, Plaintiff has
 24 suffered and is entitled to monetary damages in an amount to be proven at trial

25 45. Plaintiff is entitled to relief against Defendants, including full
 26 restitution and/or disgorgement of all profits and benefits that may have been
 27 obtained by Defendants as a result of such unfair competition.

1 46. Defendants' unlawful conduct has caused and will cause irreparable
2 harm to Plaintiff which cannot be fully compensated by money. Plaintiff has no
3 adequate remedy at law. Therefore, in addition to monetary relief, Plaintiff is
4 entitled to preliminary and permanent injunctive relief enjoining Defendants from
5 engaging in further acts of unfair competition

6 47. Defendants' conduct is willful, wanton, malicious, oppressive, and in
7 conscious disregard of Plaintiff's rights in the COUNTRY MART Mark and the
8 Country Mart Logos, justifying punitive and exemplary damages under California
9 Civil Code Section 3294 and based upon common law unfair competition
10 principles.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment as follows:

As to All Claims for Relief:

15 a. For preliminary and permanent injunctive relief restraining and
16 enjoining Defendants, their officers, agents, servants, employees, partners,
17 subsidiaries and attorneys, and all persons acting in concert with one or more of
18 them, or on any of their respective behalves, from using Plaintiff's COUNTRY
19 MART Mark, or any confusingly similar variations thereof (including the mark
20 "Valley Country Mart" and/or any mark utilizing the phrase "Country Mart"), in
21 connection with shopping centers and the development and leasing thereof, or from
22 otherwise infringing upon Plaintiff's COUNTRY MART Mark or competing
23 unfairly with Plaintiff;

- c. For an award of Plaintiff's damages;
- d. For an order requiring Defendants to disgorge all profits and/or benefits they obtained as a result of their wrongful conduct;
- e. For an award of treble damages resulting from Defendants' willful and intentional conduct;
- f. For an award of punitive and exemplary damages;
- g. For Plaintiff's costs of suit herein and reasonable attorneys' fees incurred herein, to the extent available by law; and
- h. For such other further relief in Plaintiff's favor as the Court may deem just and proper.

DATED: May 7, 2018

GREENBERG GLUSKER FIELDS CLAMAN & MACHTINGER LLP

By: /s/ Aaron J. Moss
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ELIZABETH SBARDELLATI (SBN
293695)
Attorneys for Plaintiff JAMES STEVEN
ROSENFIELD

JURY TRIAL DEMAND

Pursuant to Federal Rule of Civil Procedure 38(a), Plaintiff demands a trial by jury on all issues so triable.

DATED: May 7, 2018

GREENBERG GLUSKER FIELDS CLAMAN & MACHTINGER LLP

By: /s/ Aaron J. Moss

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